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Delaware

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (this "Agreement") is dated as of ~~August~~ November 2001, by and among Pacific, a Delaware for-profit corporation ("Purchaser"), CareFirst, Inc., a Maryland not-for-profit corporation ("CareFirst"), and CF Acquisition Corp., a Maryland corporation ("CFAC").

RECITALS

1. Purchaser directly owns all of the issued and outstanding stock of CFAC;
2. The Board of Directors of each of Purchaser, CareFirst and CFAC (a) have approved the merger of CFAC with and into CareFirst upon the terms and subject to the conditions of this Agreement, including the ancillary agreements executed and delivered pursuant hereto and (b) deem such merger to be in the best interests of their respective companies and subscribers, and, in the case of Purchaser and CFAC, their respective stockholders; immediately prior to
3. Because Purchaser is a for-profit company and CareFirst and the Primary CareFirst Insurers are each not-for-profit companies, it will be necessary for the Primary CareFirst Companies to convert to for-profit status ~~concurrently~~ with the consummation of such merger, and as part of the conversion of the Primary CareFirst Companies, CareFirst will issue 100% of its outstanding shares of capital stock ("CareFirst Common Stock") to certain tax-exempt entities (each, a "Tax-Exempt Entity") to be designated in accordance with applicable laws, so that, immediately prior to the merger, the Tax-Exempt Entities will constitute all of the stockholders of CareFirst. The principal elements of such conversion are as set forth in Appendix A hereto;

and 4. The parties expect and intend that the merger of CFAC with and into CareFirst will: (i) create an enterprise that takes advantage of the strengths, contributions, resources and prospects of each of the parties; (ii) enhance the offering of competitive Blue Cross Blue Shield and other related health care products for Delaware, the District of Columbia, Maryland and other jurisdictions in which CareFirst operates; (iii) provide the workforce of the CareFirst Companies opportunities for ~~continued~~ employment within each such Company's current service area consistent with the collective enterprise's evolving business requirements; (iv) create a collective enterprise which provides additional financial strength for the customers of each of the parties, allows each of the parties access to capital to support strategic initiatives and positions the collective enterprise as a more significant regional competitor; and (v) cause, allow and assist the Primary CareFirst Insurers to continue to maintain a significant presence within their respective jurisdictions, including operations in each jurisdiction consistent with the collective enterprise's ongoing business requirements, the maintenance of the corporate headquarters of each within their respective jurisdictions and the provision of products and services to residents in their respective jurisdictions; and

evolving

Don't we need an exemption for stock issued in the conversion?

whatsoever relating to, or security or right exchangeable or convertible into, shares of any capital stock of such CareFirst Company, and there are no contracts, commitments, understandings or arrangements by which any CareFirst Company is bound to issue or repurchase shares of its capital stock, or options, warrants or rights to purchase or acquire any additional shares of its capital stock. All shares of the CareFirst Subsidiaries are duly authorized, validly issued, fully paid and non-assessable, have not been issued in violation of, and are not subject to, any preemptive right. There are no contracts, commitments, understandings or arrangements by which any person has any right or claim to become a member of CareFirst or any of the Primary CareFirst Insurers.

(e) The CareFirst Disclosure Schedule sets forth the equity or member interests of each CareFirst Subsidiary that are owned by CareFirst or another CareFirst Company. The CareFirst Subsidiary Shares are owned, possessed or controlled by CareFirst, directly or indirectly, free and clear of all liens, restrictions, claims, equities, charges, options, rights of first refusal, encumbrances or other restrictions of any kind, with no defects of title whatsoever. CareFirst or another CareFirst Company has full power, right and authority to vote all of the CareFirst Subsidiary Shares. CareFirst is not a party to or bound by any voting trust, proxy or other agreement affecting or relating to the right to transfer or vote the CareFirst Subsidiary Shares.

Section 4.2. Authority.

CareFirst has all requisite power and authority to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby, subject to the receipt of the regulatory approvals set forth in Section 4.4(b) hereof. The execution and delivery of this Agreement by CareFirst, the performance of its obligations hereunder and the consummation by it of the transactions contemplated hereby have been duly and validly authorized by the Boards of Directors of CareFirst and BCBSD, and except for the approval of the Merger by the Tax-Exempt Entities in their capacity as stockholders of CareFirst following the Conversion, no other corporate act or corporate proceeding on the part of the CareFirst Companies is necessary to approve the execution and delivery of this Agreement, the performance by CareFirst of its obligations hereunder or the consummation of the transactions contemplated hereby.

Section 4.3. Execution and Binding Effect.

This Agreement has been duly and validly executed and delivered by CareFirst and constitutes, and the other documents and instruments to be executed and delivered by CareFirst pursuant hereto upon their execution and delivery by CareFirst on or prior to the Closing Date will constitute (assuming, in each case, the due and valid authorization, execution and delivery thereof by the other party or parties thereto), legal, valid and binding obligations of CareFirst, enforceable against it in accordance with their respective terms, except as such enforceability may be limited by (a) bankruptcy, insolvency, rehabilitation, reorganization, moratorium, or similar laws affecting enforcement of creditors' rights generally and (b) general equitable principles.

Section 4.7. Taxes.

(a) As of the date hereof, each of the Primary CareFirst Companies has been and, to CareFirst's knowledge, is an "existing Blue Cross and Blue Shield organization" as defined in Section 833(c)(2) of the Code, and has filed its federal income tax returns for all periods after the effective date of Section 833 of the Code consistent with its reasonable interpretation of the treatment described in Section 833 of the Code.

(b) All federal income tax returns required to be filed by any CareFirst Company have been properly and timely filed with the IRS, and all state and local income and premium tax returns required to be filed by any CareFirst Company have been properly and timely filed with the appropriate state or local taxing authorities, or an appropriate application for extension of time to file such returns has been filed. Except as set forth in the CareFirst Disclosure Schedule, such tax returns were true, correct and complete in all material respects at the time filed, and each CareFirst Company has paid and discharged all Taxes shown to be due on such returns, other than such Taxes as are being contested in good faith by appropriate proceedings and are adequately reserved for on the most recent financial statements. Each CareFirst Company has adequately reserved, in accordance with SAP or GAAP, as applicable, on the financial statements referred to in Section 4.5, for the payment of all unpaid Taxes, including interest and penalties, payable in respect of any taxable event or period (including interim periods) ending on the dates of such financial statements and for all periods prior thereto.

(c) No claim or deficiency for any Taxes has been proposed, asserted, assessed or, to the knowledge of CareFirst, threatened by the IRS or any other taxing authority or agency against any CareFirst Company. No requests for waivers of the time to assess any Taxes are pending. Except as set forth in the CareFirst Disclosure Schedule, none of the federal income tax returns for any CareFirst Company has been examined by or settled with the IRS for any year, and none of the tax returns for any CareFirst Company remains open or pending.

(d) None of the CareFirst Companies is a party to, is bound by or has any obligation under any tax sharing agreement or similar contract arrangement or any agreement that obligates it to make any payment computed by reference to the Taxes, Taxable Income or Taxable losses of any other person. IC.

Section 4.8. Absence of Certain Changes or Events.

Except as set forth on CareFirst's Disclosure Schedule, since December 31, 2000 and through the date of this Agreement, (a) each of the CareFirst Companies has, in all material respects, conducted its business in the ordinary course consistent with past practices, (b) neither CareFirst nor any CareFirst Subsidiary has taken any action set forth in Section 6.1(a) which if taken after the date hereof would violate such Section and (c) the CareFirst Companies have not experienced an event that has had, or would reasonably be expected to have, a CareFirst Material Adverse Effect.

Section 4.9. Litigation; Judicial Proceedings.

(a) As of the date of this Agreement, there are no judicial or administrative actions, proceedings or investigations pending or, to the knowledge of CareFirst, threatened, that (i) question the validity of this Agreement or any action taken or to be taken by CareFirst in connection with this Agreement, or (ii) seek to prevent the consummation by CareFirst of any of the transactions contemplated by this Agreement.

(b) Except as set forth in the CareFirst Disclosure Schedule or as otherwise disclosed in writing by CareFirst to the Purchaser on or before the date of this Agreement, there is no litigation, proceeding, suit, action, charge or investigation pending or, to the knowledge of CareFirst, threatened, or any order, judgment, injunction, decree, plea agreement, stipulation or award of any kind outstanding, against or relating to any CareFirst Company, or involving any of its property or business, the outcome of which in the aggregate may reasonably be expected to result in a CareFirst Material Adverse Effect.

Section 4.10. Compliance with Law.

(a) Each CareFirst Company is conducting its business in compliance with all statutes, laws, rules, regulations, ordinances, decrees, judgments, injunctions and orders applicable to it (including those relating to ERISA, labor laws, Health Benefit Laws, environmental laws and health and safety matters), except where such failure to comply would not have a CareFirst Material Adverse Effect, and has not received any notice that it is in material noncompliance with any such statutes, laws, rules, regulations, ordinances, decrees or orders.

(b) Each CareFirst Company currently holds all permits, licenses and approvals of every Governmental Entity necessary for the ownership of its respective assets and the operation of its respective businesses (including those relating to ERISA, labor laws, Health Benefit Laws, environmental laws and health and safety matters) except where the failure to hold such permits, licenses or approvals would not result in a CareFirst Material Adverse Effect. The CareFirst Disclosure Schedule sets forth a complete list of all material permits, licenses and approvals of the CareFirst Companies.

(c) Each CareFirst Company is in compliance with all such permits, licenses and approvals, except where such failure to comply would not result in a CareFirst Material Adverse Effect.

(d) No CareFirst Company nor any officer, employee, agent, representative or other person acting on the express, implied or apparent authority thereof, has paid or received any bribe or other unlawful, questionable or unusual payment of money or other thing of value, granted or accepted any extraordinary discount, or furnished or been given any unlawful or unusual inducement to or from any person or Governmental Entity in connection with or in furtherance of the business of any CareFirst Company.